

### Part 3

## Campaign and Financial Reporting Requirements for Judicial Retention Elections

### 20A-12-301 Definitions.

As used in this part:

- (1)
  - (a) "Contribution" means any of the following when done for political purposes:
    - (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the judge or the judge's personal campaign committee;
    - (ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the judge or the judge's personal campaign committee;
    - (iii) any transfer of funds from another reporting entity or a corporation to the judge or the judge's personal campaign committee;
    - (iv) compensation paid by any person or reporting entity other than the judge or the judge's personal campaign committee for personal services provided without charge to the judge or the judge's personal campaign committee; and
    - (v) goods or services provided to or for the benefit of the judge or the judge's personal campaign committee at less than fair market value.
  - (b) "Contribution" does not include:
    - (i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of the judge or the judge's personal campaign committee; or
    - (ii) money lent to the judge or the judge's personal campaign committee by a financial institution in the ordinary course of business.
- (2)
  - (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for political purposes.
  - (b) "Corporation" does not mean:
    - (i) a business organization's political action committee as defined in Section 20A-11-101 or political issues committee as defined in Section 20A-11-101; or
    - (ii) a business entity organized as a partnership or a sole proprietorship.
- (3) "Detailed listing" means:
  - (a) for each contribution:
    - (i) the name and address of the individual or source making the contribution, to the extent that the name or address of the individual or source is known;
    - (ii) the amount or value of the contribution; and
    - (iii) the date the contribution was made; and
  - (b) for each expenditure:
    - (i) the amount of the expenditure;
    - (ii) the person or entity to whom it was disbursed;
    - (iii) the specific purpose, item, or service acquired by the expenditure; and
    - (iv) the date the expenditure was made.
- (4)
  - (a) "Expenditure" means:
    - (i) any disbursement from contributions or from the separate bank account required by this chapter;

- (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;
  - (iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;
  - (iv) compensation paid by a corporation or reporting entity for personal services rendered by a person without charge to the judge or the judge's personal campaign committee;
  - (v) a transfer of funds between the judge's personal campaign committee and another judge's personal campaign committee; or
  - (vi) goods or services provided by the judge's personal campaign committee to or for the benefit of another judge for political purposes at less than fair market value.
- (b) "Expenditure" does not include:
- (i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of the judge or judge's personal campaign committee; or
  - (ii) money lent to a judge's personal campaign committee by a financial institution in the ordinary course of business.
- (5) "Individual" means a natural person.
- (6) "Interim report" means a report identifying the contributions received and expenditures made since the last report.
- (7) "Personal campaign committee" means the committee appointed by a judge to act for the judge as provided in this chapter.
- (8) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any judge standing for retention at any election.
- (9) "Reporting entity" means a judge, judge's personal campaign committee, candidate, a candidate's personal campaign committee, an officeholder, and a party committee, a political action committee, and a political issues committee.
- (10) "Summary report" means the year-end report containing the summary of a reporting entity's contributions and expenditures.

Amended by Chapter 21, 2015 General Session

**20A-12-301.5 Disclosure of actual source or recipient required.**

- (1) As used in this section, "transactional intermediary" means a person, including a credit card company, a financial institution, or a money transfer service, that pays or transfers money to a person on behalf of another person.
- (2) When, under this chapter, a person makes a detailed listing, discloses or reports the source of a contribution, discloses or reports the person or entity to whom a disbursement is made, or discloses or reports the identity of a donor, the person:
  - (a) shall reveal the actual source of the contribution, the actual person or entity to whom the disbursement is ultimately made, or the actual identity of the donor; and
  - (b) may not merely list, disclose, or report the transactional intermediary.

Enacted by Chapter 18, 2014 General Session

**20A-12-302 Campaign committee required.**

- (1)

- (a) When permitted to do so by the Code of Judicial Conduct promulgated by the Utah Supreme Court, and if the judge chooses to solicit contributions or make expenditures to promote his retention, the judge may establish no more than one retention election personal campaign committee, consisting of one or more persons, to receive contributions, make expenditures, and shall file reports connected with the judge's retention election campaign.
  - (b) A judge or person acting in concert with or with the knowledge of the judge may not receive any contributions or make any expenditures other than through the personal campaign committee established under this section.
- (2)
- (a) The judge shall file with the lieutenant governor a signed written statement containing the name and address of each member and the secretary of the judge's personal campaign committee.
  - (b) The judge may change the membership of the personal campaign committee at any time by filing with the lieutenant governor a signed statement containing the name and address of any additional members and identifying any members that have been removed from the committee.
  - (c) The judge or the judge's personal campaign committee may not make any expenditures on behalf of the judge until the statement has been filed.
- (3)
- (a) The judge's personal campaign committee may not make an expenditure of more than \$1,000 unless the judge or the secretary of the personal campaign committee authorizes the expenditure in writing.
  - (b) A judge or the judge's personal campaign committee may not make any expenditures prohibited by law.
- (4) A judge's personal campaign committee is dissolved on the date that the summary report required by Section 20A-12-304 is filed.

Enacted by Chapter 166, 2001 General Session

**20A-12-303 Separate account for campaign funds -- Reporting contributions.**

- (1) The judge or the judge's personal campaign committee shall deposit each contribution in one or more separate personal campaign accounts in a financial institution.
  - (2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.
- (3)
- (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:
    - (i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;
    - (ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and
    - (iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.
  - (b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution received by the judge, within 30 days after the day on which the contribution is received.
  - (c) For each contribution that a judge fails to report within the time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to:

- (i) 10% of the amount of the contribution if the judge reports the contribution within 60 days after the day on which the time period described in Subsection (3)(b) ends; or
  - (ii) 20% of the amount of the contribution, if the judge fails to report the contribution within 60 days after the day on which the time period described in Subsection (3)(b) ends.
- (d) The lieutenant governor shall:
- (i) deposit money received under Subsection (3)(c) into the General Fund; and
  - (ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:
    - (A) each fine imposed by the lieutenant governor against the judge;
    - (B) the amount of the fine;
    - (C) the amount of the contribution to which the fine relates; and
    - (D) the date of the contribution.
- (4) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a judge or the judge's personal campaign committee shall disburse the amount of the contribution to:
- (a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or
  - (b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Amended by Chapter 21, 2015 General Session

Amended by Chapter 127, 2015 General Session

**20A-12-304 Judicial retention election candidates -- Financial reporting requirements -- Year-end summary report.**

- (1) The judge's personal campaign committee shall file a summary report with the lieutenant governor by January 10 of the year after the regular general election year.
- (2)
- (a) Each summary report shall include the following information as of December 31 of the last regular general election year:
    - (i) a single figure equal to the total amount of contributions reported on the interim report;
    - (ii) a single figure equal to the total amount of expenditures reported on the interim report;
    - (iii) a detailed listing of each contribution received since the last summary report that has not been reported in detail on the interim report;
    - (iv) for each nonmonetary contribution, the fair market value of the contribution;
    - (v) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on the interim report;
    - (vi) for each nonmonetary expenditure, the fair market value of the expenditure; and
    - (vii) the net balance for the year, consisting of all contributions minus all expenditures.
  - (b)
    - (i) For all single contributions of \$50 or less, an aggregate figure may be reported without a separate detailed listing.
    - (ii) Two or more contributions from the same source for a total of more than \$50 may not be reported in the aggregate, but shall be reported in the detailed listing.
  - (c) A check or negotiable instrument received by a judge or the judge's personal campaign committee on or before December 31 of the previous year shall be reported in the summary report.

- (3) The judge shall certify in the summary report that, to the best of the judge's knowledge, all contributions and all expenditures have been reported as of December 31 of the last regular general election year and that there are no financial obligations outstanding except as set forth in the report.

Amended by Chapter 389, 2010 General Session

**20A-12-305 Judicial retention election candidates -- Financial reporting requirements -- Interim report.**

- (1) The judge's personal campaign committee shall file an interim report with the lieutenant governor before the close of regular office hours on the date seven days before the regular general election date.
- (2) Each interim report shall include the following information:
  - (a) a detailed listing of each contribution received since the last financial statement;
  - (b) for each nonmonetary contribution, the fair market value of the contribution;
  - (c) a detailed listing of each expenditure made since the last summary report;
  - (d) for each nonmonetary expenditure, the fair market value of the expenditure; and
  - (e) a net balance for the year consisting of all contributions since the last summary report minus all expenditures since the last summary report.
- (3)
  - (a) For all individual contributions of \$50 or less, a single aggregate figure may be reported without separate detailed listings.
  - (b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.
- (4) In preparing each interim report, all contributions and expenditures shall be reported as of five days before the required filing date of the report.
- (5) A negotiable instrument or check received by a judge or the judge's personal campaign committee more than five days before the required filing date of a report required by this section shall be included in the interim report.

Amended by Chapter 396, 2011 General Session

**20A-12-306 Judges -- Failure to file reports -- Penalties.**

- (1)
  - (a) If a judge's personal campaign committee fails to file the interim report due before the regular general election, the lieutenant governor shall, after making a reasonable attempt to discover if the report was timely filed:
    - (i) inform the county clerk and other appropriate election officials who:
      - (A)
        - (I) shall, if practicable, remove the name of the judge from the ballots before the ballots are delivered to voters; or
        - (II) shall, if removing the judge's name from the ballot is not practicable, inform the voters by any practicable method that the judge has been disqualified and that votes cast for the judge will not be counted; and
      - (B) may not count any votes for that judge; and
    - (ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.
  - (b) Any judge who fails to file timely a financial statement required by this part is disqualified.

- (c) Notwithstanding Subsections (1)(a) and (1)(b), a judge is not disqualified and the lieutenant governor may not impose a fine if:
  - (i) the candidate timely files the reports required by this section in accordance with Section 20A-11-103;
  - (ii) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and
  - (iii) the omissions, errors, or inaccuracies described in Subsection (1)(c)(ii) are corrected in an amended report or in the next scheduled report.
- (2)
  - (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:
    - (i) each judge that is required to file a summary report has filed one; and
    - (ii) each summary report contains the information required by this part.
  - (b) If it appears that any judge has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the judge of the violation or written complaint and direct the judge to file a summary report correcting the problem.
  - (c)
    - (i) It is unlawful for any judge to fail to file or amend a summary report within 14 days after receiving notice from the lieutenant governor under this section.
    - (ii) Each judge who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.
    - (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the attorney general.

Amended by Chapter 389, 2010 General Session